



08 OCT 2003

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In re Application of :
Luthje et al. :
Application No.: 09/937,996 : COMMUNICATION
Filing Date: 28 September 2001 :
Attorney Docket No.: 02572 :
For: Steering Device For Vehicles :

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

International application PCT/EP00/02839 was filed on 30 March 2000 and claimed an earliest priority date of 01 April 1999. A copy of the international application as published in German was transmitted to the USPTO on 12 October 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the 30 period for payment of the basic national fee in the United States expired as of midnight on 01 October 2001.

On 28 September 2001, Applicants filed the instant application.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.

Alternatively, one of the following indications may be used:

- 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
- 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

Applicants' "Utility Patent Application Transmittal Letter (Only for nonprovisional applications under 37 CFR 1.53(b))" of 28 September 2001 indicated that the papers were being filed as a nonprovisional utility application, suggesting that treatment under 35 U.S.C. 111(a) was being requested. The accompanying "Fee Transmittal For FY 2000" referenced international application number PCT/EP00/02839, but itemized the filing fee being paid as the "Utility filing fee," further indicating that applicants were requesting treatment under 35 U.S.C. 111(a). The accompanying Declaration and Power of Attorney form indicated that "This declaration is for a national stage of PCT application," but the declaration was unsigned. In view of these instructions, there was no clear indication that the papers were filed under 35 U.S.C. 371 rather than 35 U.S.C. 111 (a). As such, the papers should properly have been processed as an application filed under 35 U.S.C. 111 (a).

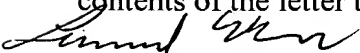
Insofar as this application under 35 U.S.C. 111(a) was co-pending with international application PCT/EP00/02839 from 28 September 2001 through 01 October 2001, applicants may wish to amend the application to claim benefit of international application PCT/EP00/02839 under 35 U.S.C. 120. *See also* 37 CFR 1.78.


Applicant is reminded that, in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. *See* MPEP § 1896.

DECISION

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, including the preparation and mailing of a filing receipt reflecting the correct title and showing a filing date of 28 September 2001.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.


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